

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	)	
	)	
v.	)	Civil No. 1:21-CV-03847-TWT
	)	
\$8,500 IN U.S. CURRENCY,	)	
	)	
Defendant,	)	
	)	
BRIAN MOORE, JR.,	)	
	)	
Claimant.	)	

**ANSWER OF CLAIMANT TO VERIFIED COMPLAINT  
FOR FORFEITURE *IN REM***

Claimant, BRIAN MOORE, JR. (hereinafter “Claimant” or “Mr. Moore”),  
by and through his undersigned attorney, hereby answers the Verified Complaint  
for Forfeiture *In Rem*, and answers as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Claimant lacks knowledge as to the present whereabouts of the  
defendant currency and thus neither admit nor deny the allegations in Paragraph 4.
5. Paragraph 5 states conclusions of law to which no response is required.  
To the extent that Paragraph 5 may be read to make allegations of fact concerning  
Claimant or the defendant property, those allegations are denied.

6. Paragraph 6 states conclusions of law to which no response is required. To the extent that Paragraph 6 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

7. Paragraph 7 states conclusions of law to which no response is required. To the extent that Paragraph 7 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

8. Paragraph 8 states conclusions of law to which no response is required. To the extent that Paragraph 8 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

9. Paragraph 9 states conclusions of law to which no response is required. To the extent that Paragraph 9 may be read to make allegations of fact concerning Claimant or the defendant property, those allegations are denied.

10. Denied. Based on information and belief, it appears the agents were not conducting a “random interdiction” but instead received a secret tip from TSA that the Claimant was in possession of U.S. Currency.

11. Denied.

12. Denied.

13. Denied.

14. Denied.

15. Denied, although the agents falsely accused the Claimant of possessing

illegal drugs which he denied.

16. Admitted that the Claimant was asked if he was carrying any money and replied affirmatively, but denied that the agents asked whether he was carrying “large sums of money.”

17. Denied.

18. Denied. The agents demanded that the Claimant provide the agents with his boarding pass and driver’s license.

19. Denied.

20. Denied.

21. Admitted.

22. Admitted.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Admitted.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Admitted that the agents demanded that Claimant sign a form but Claimant lacks knowledge as to the type of form signed because he was not provided with a copy.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Denied.

49. Admitted.

50. Claimant lacks knowledge and thus neither admit nor deny the allegations in Paragraph 50, although if the K-9 gave an alert to the presence of narcotics or even the smell of narcotics, then it was a false alert.

51. Claimant lacks knowledge as to the present whereabouts of the defendant currency and thus neither admit nor deny the allegations in Paragraph 51.

52. Admitted.

53. Denied.

54. Denied.

### **FIRST AFFIRMATIVE DEFENSE**

Plaintiff's Complaint fails to state claims upon which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

The warrantless stop, detention, and seizure of Claimant and his property was illegal and unreasonable from its inception and then illegally prolonged in violation of the Mr. Moore's state and federal constitutional rights under the Fourth, Fifth, and Fourteen Amendments to the United States Constitution and Article 1, Section 1 of the Constitution of the State of Georgia. As such, any evidence gathered illegally should be suppress or excluded including observations of Mr. Moore, his identity, his statements, the luggage, observations of U.S. Currency, and the U.S. Currency itself.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's Complaint does not comply with the requirement of Supplemental Rule G to "state sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial." The Complaint contains no sufficient allegations concerning the facts allegedly supporting forfeiture of the defendant currency.

### **FOURTH AFFIRMATIVE DEFENSE**

Forfeiture of the defendant currency violates the Due Process Clause of the Fifth Amendment to the United States Constitution because law enforcement officers involved in pursuing the forfeiture have a financial incentive in securing forfeiture. State and federal law enforcement agencies involved in the forfeiture may retain proceeds from the forfeiture to fund their activities. And, on information and belief, individual law enforcement officials within the relevant state and federal law enforcement agencies have an incentive to forfeit property to ensure their job security.

### **FIFTH AFFIRMATIVE DEFENSE**

Forfeiture of the defendant currency is barred by the Appropriations Clause of Article I, Section 9 of the United States Constitution. If the forfeiture is completed, law enforcement agencies will be able to use money from the forfeiture to fund their activities absent any appropriation from Congress. But, under the

Appropriations Clause, money for government spending must be secured through congressional appropriation.

#### **SIXTH AFFIRMATIVE DEFENSE**

Forfeiture of the defendant currency is barred by the prohibition against excessive fines set forth in the Eighth Amendment to the United States Constitution.

#### **SEVENTH AFFIRMATIVE DEFENSE**

The seized property is not from any prohibited source and not subject to forfeiture.

#### **EIGHTH AFFIRMATIVE DEFENSE**

Claimant is entitled to reasonable attorney fees and costs per statute.

#### **NINTH AFFIRMATIVE DEFENSE**

Claimant reserve the right to amend.

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## CONCLUSION

WHEREFORE, Claimant hereby demands that the Court deny Plaintiff's claim for forfeiture of the defendant currency; order the defendant currency returned to Claimant; order that Plaintiff pay Claimant's attorneys' fees and costs pursuant to 28 U.S.C. § 2465(b)(1)(A); order that Plaintiff pay pre- and post-judgment interest on the defendant currency to Claimant pursuant to 28 U.S.C. §2465(b)(1)(B)–(C); and enter such additional relief as the Court deems just and proper.

Respectfully submitted, this 5th day of November, 2021.

By: /s/ Jason D. Sammis  
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I hereby certify that a true and correct copy of the foregoing was electronically submitted this 5th day of November 2021, to:

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